

**Filed 10/28/14 by Clerk of Supreme Court
IN THE SUPREME COURT
STATE OF NORTH DAKOTA**

2014 ND 191

State of North Dakota,

Plaintiff and Appellee

v.

Tilmer Paul Everett,

Defendant and Appellant

No. 20140102

Appeal from the District Court of Burleigh County, South Central Judicial District, the Honorable Bruce A. Romanick, Judge.

AFFIRMED.

Per Curiam.

Dawn M. Deitz, Assistant State's Attorney, 514 East Thayer Avenue, Bismarck, N.D. 58501, for plaintiff and appellee; submitted on brief.

Tilmer Everett, P.O. Box 5521, Bismarck, N.D. 58506, defendant and appellant; on brief.

State v. Everett

No. 20140102

Per Curiam.

[¶1] Tilmer Everett appeals from an order denying his petition alleging abuse of process and violation of his due process rights in his conviction for gross sexual imposition. Everett's conviction of gross sexual imposition was affirmed in State v. Everett, 2008 ND 126, 756 N.W.2d 344. The denials of his numerous post-conviction applications also have been affirmed. See Everett v. State, 2012 ND 189, 821 N.W.2d 385; Everett v. State, 2011 ND 221, 806 N.W.2d 438; Everett v. State, 2010 ND 226, 795 N.W.2d 37; Everett v. State, 2010 ND 4, 789 N.W.2d 282; Everett v. State, 2008 ND 199, 757 N.W.2d 530.

[¶2] In February 2014, Everett filed this petition alleging abuse of process and denial of his due process rights, contending the district court improperly granted the State's demand for a change of judge in the early stages of the underlying criminal proceeding. We affirm the order denying his petition under N.D.R.App.P. 35.1(a)(1), (6) and (7); see Everett, 2010 ND 4, 789 N.W.2d 282 (res judicata precludes claims or variations of claims raised in previous proceedings, and misuse of process precludes claims that could have been raised in a prior post-conviction proceeding or other proceeding).

[¶3] Gerald W. VandeWalle, C.J.
Daniel J. Crothers
Lisa Fair McEvers
Carol Ronning Kapsner
Dale V. Sandstrom